Office Action Summary	Application No.	Applicant(s)	
	10/662,599	KENNEDY, BRUCE L.	
	Examiner	Art Unit	
	Philip R. Smith	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

4a) Of the above claim(s) *1-18 and 32-45* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-31 and 46-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/24/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

[01] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

[02] Claims 19-31,46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beutter (2003/0076410) in view of Winkler (6,411,851).

[03] With regard to claim 19:

[03a] Beutter discloses a medical video instrument having touch screen control comprising:

- a touch screen ("[i]In response to touch-screen or voice generated commands…) for entering control commands ("the operating room control center 42 generates control signals to the camera control unit 34," [0030]) to control said medical video instrument ("endoscopic viewing system 20," [0026]), said medical video instrument inserted into a body cavity and generating an image stream representative of the body cavity and displayed on said touch screen;
- a processor ("operating room control center 42," as noted above) for receiving said control commands and for generating control signals to operate said medical video instrument;
- the processor disclosed by Beutter is inherently enclosed by a housing.

[03b] Beutter does not disclose

- that said touch screen movable between a first position at least partially within a footprint of said housing and a second position extended from said footprint of said housing.

[03c] Winkler discloses

- a processor ("programmer 200" comprising "computer circuitry") for receiving control commands (12/28-39) from a touch screen (comprising "display screen 206" & "stylus 208," column 12/ lines 6-10) and for generating control signals to operate a medical instrument ("implantable medical device IMD 10").
- that said touch screen is movable between a first position at least partially within a footprint ("folds down in a closed position") of said housing and a second position ("plurality of possible open positions") extended from said footprint of said housing (12/10-27).

[03d] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that the "operating room control center 42" having a "touch-screen" disclosed by Beutter take the particular for disclosed by Winkler. A skilled artisan would be motivated to do so in order to minimize space requirements when the control center is not in use; and to reduce potential for damage to the touch screen.

[04] With regard to claims 20-21: the touch screen disclosed by Winkler is unpluggable from said housing and includes stackable mating plug portions.

[05] With regard to claim 22: the touch screen disclosed by Beutter in view of Winkler can inherently be used by a plurality of medical instruments.

[06] With regard to claims 23 & 30-31: As noted above, Winkler discloses that the touch screen slides out of the housing and is deflectable. Deflection, when it occurs, inherently occurs about some axis, which may be called the axis of said housing.

[07] With regard to claims 24-25: As noted above, Winkler discloses a "stylus 208" with which to "interact with display screen 206" (13/8-9). It is clear from Fig. 6 that the touch screen slides up and out of the "closed position" into an "open position" where it is lodged in one of a plurality of slots in the housing and propped back at its sides against a rotating support. From this one of a plurality of open positions, the touch screen is clearly more difficult to deflect in the opening direction (propped back against the rotating support) than it is in the closing direction (laid flat within the housing), enabling the touch screen to interact with "stylus 208" without unintentional deflection.

[08] With regard to claim 26: Touch screens conventionally present a keyboard to the user. Winkler suggests this when he states the following in 12/35-39: "Display screen 206 is the primary input medium for programmer 200, and therefore preferably has sufficient resolution to support operations including selection, gestures, annotation, and character recognition."

[09] With regard to claim 27: Beutter further discloses a sensor ("camera head 28," [0027]) in communication with said processor, said sensor receiving control signals to operate said medical instrument.

[10] With regard to claim 28: Beutter discloses a speech recognition module ("voice-generated commands," [0030]) executing on said processor, said speech recognition module receiving voice signals that control said medical instrument.

[11] With regard to claim 29: Winkler further discloses an expert system executing on said processor ("analyzer 210"), said expert system generating control signals to operate said medical instrument (12/40-49).

[12] With regard to claim 46: the medical video instrument disclosed by Winkler generates video data that is displayed on said touch screen.

[13] With regard to claim 47: the video screen disclosed by Winkler is coupled to said processor, and said medical video instrument generates video data that is displayed on said video screen.

Additional Claim Rejections - 35 USC § 103

[14] Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beutter (2003/0076410) in view of Winkler (6,411,851) and in further view of Watai (2003/0060678).

[15] Beutter in view of Winkler does not disclose a storage for storing the image stream.

[16] Watai discloses a "hard disk 21e for storing image data" ([0064]).

[17] At the time of the invention, it would have been obvious to a person of ordinary skill in the art to store the image data disclosed by Beutter in view of Winkler as taught by Watai. A skilled artisan would be motivated to do so in order to preserve captured medical data.

Additional Claim Rejections - 35 USC § 103

[18] Claims 19,49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beutter (2003/0076410) in view of Rosen (2002/0149706)

[19] With regard to claim 19:

[19a] Beutter discloses a medical video instrument having touch screen control comprising:

- a touch screen ("[i]In response to touch-screen or voice generated commands…) for entering control commands ("the operating room control center 42 generates control signals to the camera control unit 34," [0030]) to control said medical video instrument ("endoscopic viewing system 20," [0026]), said medical video instrument inserted into a body cavity and generating an image stream representative of the body cavity and displayed on said touch screen;

- a processor ("operating room control center 42," as noted above) for receiving said control commands and for generating control signals to operate said medical video instrument;
- the processor disclosed by Beutter is inherently enclosed by a housing.

[19b] Beutter does not disclose

- that said touch screen movable between a first position at least partially within a footprint of said housing and a second position extended from said footprint of said housing.

[19c] Rosen discloses

- that a touch screen ("20") is movable between a first position at least partially within a footprint ("slot 18") of a housing and a second position (see Figures 5-6) extended from said footprint ("free space adjacent to free edge 16") of said housing. See [0025]-[0028].

[19d] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that to combine the medical video instrument disclosed by Beutter with the retractable monitor disclosed by Rosen. It is obvious to combine prior art elements according to known methods to yield predictable results. In combination, the medical video instrument and the retractable monitor would have performed the same function as they had separately; a skilled artisan would have recognized that the result of the combination was predictable.

[20] With regard to claim 49: As noted above, Rosen discloses that said touch screen is in the first position, said touch screen is positioned within an interior cavity of said housing and when said

touch screen is moved to the second position, the touch screen positioned at least partially outside of said cavity.

Response to Arguments

[21] Applicant's arguments filed 10/24/2007 have been fully considered but they are not persuasive.

[22] Applicant contends that Beutter does not disclose an image stream representative of the body cavity and displayed on said touch screen. Applicant concedes that Beutter teaches that an image stream representative of the body cavity are applied to a monitor. Paragraph [0030] of Beutter teaches that "touch screen or voice-generated commands" are used to control the instrument. Presumably, the "touch screen generated commands" disclosed by Beutter require a screen. "Monitor 36" is the only screen which is disclosed. The "operating room control center 42" generates control signals "in response to" touch screen generated commands.

Conclusion

[23] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

[24] A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

[25] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.

[26] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.

[27] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).